



For Immediate Release

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***ENZI OPPOSES UNFUNDED FEDERAL MANDATES,  
SUPPORTS PRIVATE MARKET SOLUTIONS ALREADY IN PLACE***

**Washington, D.C.** - U.S. Senator Mike Enzi (R-WY), Ranking Member of the Senate Health, Education, Labor and Pensions (HELP) Committee, today noted that proposed legislation requiring employers to provide paid sick leave would be a massive unfunded mandate on employers that could easily cost small and large businesses tens of billions of dollars.

“Labor market competition has already resulted in employers establishing a wide array of paid leave plans, insurance programs, paid time off policies, sick leave banks and other human resource options,” Enzi said at a HELP Committee hearing titled “The Healthy Families Act: Safeguarding Americans’ Livelihood, Families and Health with Paid Sick Days.” “The question is, should the federal government mandate one costly, inflexible approach to employee benefits, an approach that will be an administrative and logistical nightmare for many employers, at the expense of all the other good things that employers are already doing? And I think the answer to that question is a resounding ‘No.’”

“If the goal of this bill is to promote healthier families, why not support legislation that will get more working families insured – as the bipartisan Small Business Health Plan bill I introduced last year would do if adopted. That initiative will make America’s working families healthier by allowing small businesses and associations to band together and buy into health plan coverage at better rates. If I were one of the 46 million uninsured Americans, I’m certain that putting health insurance within reach of my family’s budget would be my choice over more days off work.”

Today’s hearing focused on a Democrat proposal that would establish a rigid federal mandate requiring employers with 15 or more employees to give all employees 7 days of paid family and medical leave. The mandate would cover part-timers, as well as those with little or no seniority. The reasons for leave under the proposal are extremely broad, the checks on potential abuse are few, and the paid leave would be divisible into increments as small as a few minutes.

By some estimates this bill will affect roughly 45 million workers. The legislation requires up to 56 hours of paid sick time per employee; and the average hourly non-supervisory, non-farm wage is right around \$17 per hour. As a result, the average cost exposure of the proposed legislation for each full-time employee is nearly a thousand dollars. Even if one adjusts the pool of the approximately 45 million workers that would be affected to allow for part-timers, the cost exposure here is plainly in the tens of billions of dollars.

“The money necessary to pay those increased costs must come from somewhere,” Enzi said. “The pool of available labor dollars is not infinite, and when we mandate their expenditure for a specific purpose, we always run the risk of unintended consequence. A dollar that must be spent here, often results in a dollar that will not be spent elsewhere. Imagine the irony for an employee who is granted sick leave under this bill, but whose employer decides to eliminate or reduce health plan benefits.”

Enzi noted that the legislation lacks definitional precision, adequate safeguards against abuse, and due recognition of, or provisions to counter, its disruptive impact on affected businesses. In fact, the legislative language is so open-ended as to arguably create a federal mandate of 56 hours of paid time off to be used as an employee wishes, and in such increments as the employee wishes.

“All across the country, without any Congressional intervention, the operation of the labor market economics, and the voluntary cooperative efforts of employers and employees, are resulting in the establishment of leave policies that meet their unique needs,” Enzi said. “This bill throws good will out the window and abandons free markets and innovation in favor another Big Government, one-size-fits-all mandate that will only compound existing problems.”

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**Statement of Michael B. Enzi, Ranking Member**

**Senate Committee on Health, Education, Labor and Pensions**

**February 13, 2007**

**HELP COMMITTEE HEARING ON “THE HEALTHY FAMILIES ACT”**

I want to thank the Chairman for holding this hearing and I also want to thank the panel for their willingness to participate in this important dialogue.

Anyone who works for a living is keenly aware of the time demands that work imposes. The task of balancing work and family life is never easy, and when illness compounds the

situation, the challenge becomes even greater. Most private sector employers are acutely aware of this reality and increasingly responsive to it.

In the most recent member benefit survey conducted by the Society for Human Resource Management, 86% of the respondents reported that their companies provided paid sick leave either under a separate sick leave program, or as part of a general paid time off plan. More than 80% also indicated that they provide both short-term and long-term disability insurance coverage. In addition, an increasing number utilize even more creative approaches such as paid time off, and sick leave banks, or pools.

The more broadly-based National Compensation Survey reveals that on an overall national basis 68% of full-time employees have access to paid sick leave programs at work.

Most employers make these provisions both because they know that a healthy workforce benefits their business; and, because they know that in a competitive labor market, such as the one we have right now, they must address this issue to attract and retain quality employees.

Today, the average cost of employee benefits for all employers in the private sector is nearly \$7.50 an hour. Average benefits now comprise nearly 30% of total payroll costs. That number has been increasing over the years, and such numbers support the importance that most employers attach to providing meaningful benefit packages, including provisions for illness-related absences, for their employees.

Despite these facts, however, some employees do not have paid sick leave available to them at their place of work because many of these individuals are part-time employees and many work for smaller employers. Those small employers very often face the same cost squeeze and financial pressures that their own employees face. Many business owners view their employees as their own extended family. That is a fact that we need to always keep in mind as we discuss either wages or benefits and small business. We also must be aware that any additional requirements we place on small business may be the imposition of an unfunded employer mandate.

Some estimates suggest that approximately 55 million private sector workers are without access to paid sick leave. The Health Families Act, as proposed, would extend paid sick leave benefits to all of those individuals except those that work for establishments with fewer than 15 employees which would cover roughly 45 million employees. The legislation requires up to 56 hours of paid sick time per employee.

Currently, the average hourly wage is right around \$17.00 per hour for non-supervisory, non-farm employees. Thus, the average cost exposure of the proposed legislation for each full-time employee is nearly one thousand dollars. Even if we adjust the pool of the approximately 45 million workers to include part-timer employees who have pro-rata entitlements, the cost exposure here is clearly in the tens of billions of dollars.

To extend this type of leave requirement to businesses, as is contemplated by the Healthy Families Act, would be little more than an unfunded mandate on small businesses throughout the country. In addition, this legislation represents only direct labor cost, and does not account for a myriad of other indirect costs. The money necessary to pay those increased costs must come from somewhere.

Proponents of this legislation argue that the huge cost of this legislation would be offset by productivity savings gained from eliminating “presenteeism” which is called by some individuals the practice of less than healthy individuals coming to work. Presenteeism “losses” are, at best, highly speculative and subjective. Moreover, private sector human resource systems have traditionally shown the ability to adapt to economic reality. Put another way, businesses do not require federal mandates to instruct them how to operate more efficiently, productively and profitably.

No matter how desirable a particular goal may be, one cannot simply dismiss the costs involved as unimportant or inconsequential. Here, the costs are decidedly not inconsequential, particularly for smaller businesses. The pool of available labor dollars is not infinite, and when we mandate their expenditure for a specific purpose, we always run the risk of unintended consequence. A dollar that must be spent here, often results in a dollar that will not be spent elsewhere. Imagine the irony for an employee who is granted sick leave under this bill, but whose employer decides to eliminate or reduce health plan benefits.

If the end result this bill seeks is indeed healthier families, then I would also like to invite every member of this committee to work with me on small business health plan legislation. That initiative will make America’s working families healthier by allowing small businesses and associations to band together and buy into health plan coverage at better rates. Surely as we are rating the “To Do” list of the 110<sup>th</sup> Congress, increasing the number of insured Americans ranks higher than giving people days off who may not even have a health care provider to go to. I know if I were one of the 46 million uninsured Americans, I would think so.

Obviously, increased benefits, like increased wages, enjoys universal popularity. However, we cannot even contemplate mandating such benefits in an economic or policy vacuum.

We also need to bear in mind that Washington does not always have a monopoly on good ideas; and that whenever we act prescriptively, we also decrease flexibility and creativity. What works in one place of business may not work in another; and, what we inflexibly mandate may not be best for all.

I also believe that our consideration of this legislative proposal must be informed by our experience with similar legislative initiatives. As some of you may recall last Congress, the HELP Committee held a Roundtable discussion on the Family and Medical Leave Act. During the course of that Roundtable we learned about many of the practical issues and problems associated with implementing that legislation. I’d also note that the

Department of Labor has recently solicited information from the public about many of these same issues.

The Healthy Families Act – as it was introduced in the last Congress – while not an FMLA proposal, does import some of the practical problems associated with FMLA that have been repeatedly brought to our attention. Among those issues have been the practical problems associated with unanticipated, or intermittent leave; the issues associated with suspected abuse of leave entitlements, medical verification and privacy concerns, the existence of vague legislative terms and definitions, the issues related to the appropriate increments in which leave can be taken, and the incidence and costs of leave-related litigation.

These are not isolated or minor concerns. These concerns have not been raised in support of any claim that FMLA should be repealed. Quite to the contrary, virtually all the employers that have raised these concerns support FMLA, however, they believe it must be clarified in several important, real-world respects. In a wide variety of instances this legislation borrows from FMLA, and imports, and even expands, many of these same real concerns to the proposed legislation. An appropriate first step would seem to be meaningfully addressing these very real issues in the context of our current laws before simply repeating them in new ones.

Unfortunately, a review of this legislation replicates many of the practical problems we have witnessed with FMLA, and makes them even worse. The legislation lacks definitional precision, adequate safeguards against abuse, and due recognition of, or provisions to counter, its disruptive impact on affected businesses. The legislative language is extremely open-ended as to arguably create a federal mandate of 56 hours of paid time off to be used as an employee wishes, and in such increments as the employee wishes.

While I share the Chairman's concern for working families I am also concerned for the businesses, particularly the small businesses, which employ them. I also appreciate that as both a policy matter and a personal matter the achievement of an appropriate balance between work and family is a matter of great importance. However, these are complex problems and complex problems very often defy simple or universal solutions. I think we need to recognize this as we move forward, and also recognize that as simple and attractive as it may appear, we cannot solve all problems through legislative fiat without any regard to those that must pay the cost of the mandates we impose.

Mr. Chairman, thank you for holding this hearing today. I look forward to hearing from all of our panelists and look to see how we can help employees and their families to be healthy while providing the flexibility and stability for our nation's small businesses to build and grow their businesses with the goal towards hiring more workers.

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